

REMARKS

Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remains of the opinion that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the attached Declaration of Mr. Ueda, the amendments made to the claims and the following remarks.

The Present Invention

One of the unique aspects of the present Invention is the fact that the contrast medium is prepared without the use of an organic solvent. Because no organic solvent is used in preparing the contrast medium, the contrast medium contains substantially no organic solvent. In order to emphasize this unique aspect of the present Invention, the claims have been amended herein to recite that the contrast medium contains an organic solvent and the method of preparing the contrast medium is done without an organic solvent. Support for these added limitations can be found on page 23 at lines 15-18.

Claims Status

Claims 1 through 26 are pending in this Application.

Claim 1 has been amended herein to recite that the contrast medium contains substantially no organic solvent. Claim 21 has been amended herein to recite that the mixing step is conducted without an organic solvent and that the vesicle that is produced contains substantially no organic solvent. As noted above, support for these limitations can be found in the Specification on page 23, lines 15-18 where it states that liposome is prepared without any organic solvent.

Respectfully, no new matter has been added by way of this amendment.

Prior Art Rejection

Claims 1-4, 13, 17 and 18 have been rejected as being anticipated by Mackaness; and Claims 1-26 have been rejected as being unpatentable over a combination of Klaveness, Na and Otake.

At the outset, it will be noted that Mackaness, Klaveness, and Otake each teach that organic solvents are used in preparation of their materials, see Column 8, lines 46-52 of Klaveness; Column 3, lines 40-46 of Mackaness and Paragraphs 26, 57, 60 and 64 of Otake.

Furthermore, Applicants have prepared the specific contrast medium in both Mackaness and Klaveness to show that the contrast medium, which results from a process of these two Prior Art references, both contain organic solvent. In the attached Declaration of Mr. Ueda, it can be seen at Paragraphs 4 and 5 that contrast mediums, in accordance with both Klaveness and Mackaness, are prepared. In Paragraph 7 of Mr. Ueda's Declaration, the amount of organic solvent which remains in the contrast medium is recited. It can be seen that each contrast medium that was prepared in accordance with Klaveness or Mackaness that the contrast medium contained organic solvent.

In addition, the Examiner is reminded that Mr. Ueda's Declaration which is dated December 28, 2006 wherein contrast mediums made in accordance with Mackaness and Klaveness using chloroform were tested. These contrast

mediums also contain organic solvent as recited in Paragraph 6 of Mr. Ueda's December 2006 Declaration.

In light of Mr. Ueda's December 2006 Declaration and his Declaration attached hereto, it is respectfully submitted that the teachings of both Mackaness and Klaveness clearly result in the presence of organic solvent both in the preparation process and in the contrast medium which results from the preparation process.

The Examiner will also note that in the secondary reference of Otake, he teaches that he prefers to use a cosolvent in the preparation of his material, see Paragraph 26. In each one of his embodiments, as recited in Paragraphs 57, 60 and 64, cosolvents are used. Thus, it is respectfully submitted that all three of the references of Klaveness, Mackaness and Otake direct one of skill in the art to use an organic solvent in the preparation of the materials. This can be directly contrasted with the present Invention where no organic solvent is used in the preparation and no organic solvent is present in the contrast medium.

In view of the foregoing, it is respectfully submitted that Applicants have clearly defined over the teachings of Klaveness, Mackaness and Otake.

With respect to the reference Na, it is submitted that Na does not teach forming a contrast medium without the use of a cosolvent and, thus, the references taken alone or in combination do not teach or suggest the present Invention. Respectfully, the present invention is patentable over the references taken alone or in combination.

Double Patenting Rejection

Claims 21, 22 and 25 had been provisionally rejected on the basis of non statutory double patenting over the claims in copending Application 11/180,849; and Claims 2, 21, 22 and 25 had been provisionally rejected on non statutory double patenting over Claims 1, 5, 7, 11, 14-16, and 17 based on Application 11/187,397.

It is noted that these are provisional rejections because both the '849 and the '397 Applications are pending.

Because of the potential amendments that will be made to the claims herein or the claims in either one of those cases, Applicants respectfully request holding in abeyance the rejection based on these two copending Applications until such time as allowable subject matter is present in this Application based on the Prior Art.

In view of the foregoing and the enclosed, it is submitted that the Application is in condition for allowance and such action is respectfully requested.

Should any fees or extensions of time be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit account #02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By:



Timothy D. Meade, Reg. 55,449
(Attorney for Applicants)
475 Park Avenue South
New York, New York 10016
Tel. # (212) 661-8000

DCL/mr

Encl: Executed Declaration of Mr. Ueda signed on
March 23, 2007